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TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

JUNE 9, 2003

MEMBERS PRESENT: LAWRENCE TORLEY, CHAIRMAN
MICHAEL KANE
LEN MCDONALD
STEPHEN RIVERA

ALSO PRESENT: MICHAEL BABCOCK
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.
ZONING BOARD ATTORNEY

MYRA MASON
ZONING BOARD SECRETARY

ABSENT: MICHAEL REIS

REGULAR MEETING

MR. TORLEY: Gentlemen, ladies, I'd like to call to order the June 9 meeting of the Zoning Board of Appeals.

MINUTES FOR APRIL 28, 2003 & MAY 12, 2003

MR. TORLEY: What's the pleasure on the minutes?

MR. KANE: I move we accept the minutes of April 28 and May 12 as written.

MR. MC DONALD: Second it.

ROLL CALL

MR. KANE AYE

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MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. TORLEY	AYE

PRELIMINARY MEETINGS:

JO-ANN PADEN (#02-46)

MR. TORLEY: By State Law, the Zoning Board of Appeals can only take its actions after a public hearing. We hold these preliminary meetings for you so you understand the kind of things going on at the public hearing, we get an idea of what you want, you have an idea of what kind of questions you'll be asked and nobody gets surprised. Cause hopefully, this is the only time in your lives you'll be doing this, most of you. Let's begin with the first preliminary meeting. Request for 4 ft. 6 in. front yard setback for proposed deck on a corner lot at 221 Franklin Street in an R-4 zone.

Ms. Jo-Ann Paden appeared before the board for this proposal.

MR. TORLEY: What's the problem?

MS. PADEN: I just want to extend my front porch that's there four feet out to come over to the side, make it like a wraparound, attach it and it's four feet shorter from where the edge of the road is.

MR. TORLEY: So you want to extend your porch?

MS. PADEN: Yes, come around to here, the steps here come around to here.

MR. TORLEY: Make it wider than it is now?

MS. PADEN: Maybe only a couple inches because I have a walk-through here, it's just going to come right out, I have a picture of the house.

MR. TORLEY: We may have it in the file.

MR. KANE: Is that going to be across the front?

MS. PADEN: Yes, see this flower box, it's going to come out to that so this will come around to the steps.

MR. TORLEY: Is it going to extend out further than the edge of the house where it's now sitting, come out further than that coming around here?

MS. PADEN: Yes.

MR. TORLEY: Not going to be wider than that?

MS. PADEN: No, it's going to come out to this flower box here.

MR. TORLEY: So it's going to be wider than the house?

MS. PADEN: This house sticks out a little more.

MR. BABCOCK: It's the yellow here.

MR. TORLEY: I got you. I was wondering why she needed it.

MR. KANE: Basically, you're connecting the two sets of stairs that you have?

MS. PADEN: Yes.

MR. KANE: How wide would that make the deck in total?

MR. BABCOCK: The deck is 13 feet wide across the house plus the four foot of stairs, the deck itself is 13 feet and then the stairs are four foot wide and then the stairs go back to the other set of stairs 25 feet.

MR. KANE: But that we're not concerned with, we're concerned extending it in front of the house with the 13 foot section?

MR. BABCOCK: That's correct.

MR. TORLEY: Still need a variance whether or not it's a corner lot?

MR. BABCOCK: Yeah because it's the front yard, yes.

MS. PADEN: It's not right on the corner.

MR. TORLEY: Sometimes corner lots can make odd--

MS. PADEN: I have a driveway and another lot next to me.

MR. KANE: Do you feel the building of this particular deck in this fashion is more for safety reasons too for the front of your house?

MS. PADEN: It will improve that too, yes.

MR. TORLEY: This will not obstruct the vision of any drivers?

MS. PADEN: No.

MR. KANE: With the building of it, you're not going to create any water hazards or runoffs?

MS. PADEN: No.

MR. MC DONALD: Cut down any trees or anything like that?

MS. PADEN: No.

MR. MC DONALD: Over any septic or sewage?

MS. PADEN: No.

MR. TORLEY: Over any other easements?

MS. PADEN: No.

MR. TORLEY: Gentlemen, do you have any other questions?

MR. KANE: Accept a motion?

MR. TORLEY: Yes, sir.

MR. KANE: I move we set up Miss Paden for a public hearing on her requested variance at 221 Franklin Street.

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MR. MC DONALD: Second it.

ROLL CALL

MR. KANE	AYE
MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. TORLEY	AYE

MR. TORLEY: One of the things you'll have to be doing is sending out a letter to your neighbors, everybody within 500 feet of your property, it's a form legal letter in some respects, so talk to your neighbors so they know that you're putting up a deck and not a cell tower or a toxic waste dump. So talk to your neighbors, it's very important and that's it for now.

MS. PADEN: Thank you.

NEW WINDSOR DENTAL MANAGEMENT CORP. (#03-26)

MR. TORLEY: Request for 6 inch height variance for each of seven signs on facade of building and request for six inch height and five feet width variance for sign at Radiance Tanning Studio at 375 Windsor Highway, Suite 300 in a C zone.

Mr. Tom Walsh from Sign Language appeared before the board for this proposal.

MR. TORLEY: Seven signs?

MR. WALSH: It's an entire plaza, it was a renovation and they renovated the whole thing.

MR. TORLEY: So I have a question for you, these are all these signs are now existing?

MR. WALSH: Excuse me?

MR. TORLEY: You're asking for a variance for the signs that are there now?

MR. WALSH: No, these are superimposed on the photograph.

MR. TORLEY: All right, since the signs don't exist now, why can't they be six inches smaller?

MR. WALSH: Well, the way we laid it out on the fascia bringing them smaller they kind of get lost on the fascia. The owner of the premises feels also in a lot of these logos as you condense the sign, it distorts the letters and the logos, the look of their particular logos and on most of these, except for a couple of them, you know, they fit within those parameters. We did not expand the width on these signs.

MR. TORLEY: So the length of these signs?

MR. WALSH: We're only asking for six inches which would allow them to work.

MR. KANE: The picture is superimposed on the facade,

that's actual size?

MR. WALSH: Yes.

MR. MC DONALD: You have a lot of free space around it.

MR. WALSH: Yeah, well, on signs when you have a lot of free space, the negative space actually makes it easier to look at and more pleasing for the people that are looking at it and when you're going by the plaza at speeds of 45 miles per hour, it's a little easier to see a less crowded sign.

MR. TORLEY: These are going to be how illuminated?

MR. WALSH: Internally illuminated.

MR. TORLEY: No neon, no flashing?

MR. WALSH: The Radiance was the only one that was slightly different, he wanted to go with the channel letters which is similar.

MR. TORLEY: Nothing flashing?

MR. WALSH: No, nothing is flashing. The Radiance sign I believe I have that in there, is that a separate issue?

MS. MASON: It's attached.

MR. KANE: It's all under the same thing.

MR. WALSH: I believe it looks just like this one, that's a different one that you're looking at, sir, that's an existing one that's currently on the facade.

MR. KANE: Well, I personally don't have too much of a problem with the six inch difference on the height on the one side, the five feet extra length we can't do anything about?

MR. TORLEY: That's the Radiance?

MR. KANE: Yes.

MR. WALSH: My customer there is, he has three, four different stores, three different Radiance stores, one's in New Paltz with the same exact sign. Then I think he has another one, I don't know where it is exactly, but he's trying to keep the same image as the franchise with that same look and with his name being as long as it is with a sign, he's staying within the same height parameters of all the rest, but with the way it lays out, it expands longer than the other signs by two feet, I'm sorry, by--

MR. TORLEY: Four feet six inches.

MR. WALSH: Yeah.

MR. TORLEY: That's a substantial, tell you the truth, that looks, Windsor Dental PC, the Windsor Dental PC, that sign's going to meet the length code, that won't be any wider? You're asking for a six inch height variance there, from looking at the picture, it looks like that sign is virtually as long as the Radiance sign and it's asking for a substantial width.

MR. WALSH: No, well, this is a banner that's on there, temporary banner that's actually a real, that's not even fabricated from the computer, this is actually a photograph of the banner that's currently up there.

MR. TORLEY: Radiance is a real banner and the Radiance banner is the same size as the sign that you want?

MR. WALSH: The one that's in front of the board would be this which would be channel letters, I cannot make channel letters of that size.

MR. TORLEY: Physically, it's the same size as that sign?

MR. WALSH: I believe so.

MR. TORLEY: Because then I'm a little confused unless it's just the way it was put on by the computer cause New Windsor Dental sign looks almost as long.

MR. WALSH: Well, the whole issue with this is with this kind of banner, you can shrink the Radiance, okay, which we did here and we shrunk down the logo up in here, you see how we did that differently, it's not possible to make channel letters with that size letter in this script that he has which is what he's trying to achieve from his other stores.

MR. TORLEY: So this sign meets the code?

MR. WALSH: That's a banner.

MR. TORLEY: That banner is physically the size of the code?

MR. WALSH: Right.

MR. TORLEY: That certainly looks legible to me, doesn't it?

MR. WALSH: He wanted to go with a more elaborate sign.

MR. KANE: I think just from my point of view when we go to the public hearing, might want to talk to him about some adjustments to the length on that, I don't have a problem with the height but I think I'd rather keep them more the same at ten foot.

MR. WALSH: If he loses the logo on the side here, that's a 3 x 3.

MR. KANE: That brings it to 12. I can live with that.

MR. WALSH: That's a little closer.

MR. TORLEY: Yes.

MR. KANE: Obviously, if you find a way to shrink it then keep the whole thing but I think we need some movement on the length.

MR. TORLEY: You're asking for a 50% average really.

MR. BABCOCK: No, he's allowed 10 and he wants 15, same difference.

MR. TORLEY: Any other questions on this matter?

MR. KANE: Tom, you understand how we feel about that?

MR. WALSH: Yes.

MR. MC DONALD: Accept a motion?

MR. TORLEY: Yes.

MR. MC DONALD: Make a motion we set up Windsor Dental Management for a public hearing on their request.

MR. KANE: Second it.

ROLL CALL

MR. KANE	AYE
MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. TORLEY	AYE

ROBERT MC KNIGHT (#03-27)

Mr. Robert McKnight appeared before the board for this proposal.

MR. TORLEY: Request for 7 ft. required rear yard setback for proposed rear deck at 51 Birchwood Drive in an R-4 zone.

MR. TORLEY: So what's the difficulty?

MR. MC KNIGHT: I need a variance, I need to increase the back because I don't have enough setback, I have 33 feet and I believe you require 40.

MR. TORLEY: So you're asking for a 7 foot variance?

MR. MC KNIGHT: Right.

MR. KANE: You have a proposed 14 x 20 deck, the 14 is the width going out to the back?

MR. MC KNIGHT: The depth will be 12 feet, the width is 14, yeah.

MR. KANE: The depth is going to be 20?

MR. MC KNIGHT: No, 12.

MR. KANE: We have a 14 x 20 proposed deck.

MR. MC KNIGHT: In other words, it will be 12 feet out from the back line.

MR. TORLEY: So if you were to stay within the zoning code, you could only put a five foot wide deck which is not economically feasible.

MR. MC KNIGHT: Not really, it's not economically feasible.

MR. KANE: You're not creating any water hazards or runoffs in the building of the deck?

MR. MC KNIGHT: No.

MR. KANE: Deck going to be similar in size to other decks in your neighborhood?

MR. MC KNIGHT: I would say there's not many decks in my close vicinity but yeah from what I've seen.

MR. KANE: It's not an overly large deck in your opinion?

MR. MC KNIGHT: Not in my opinion.

MR. TORLEY: 12 x 14 you said?

MR. MC KNIGHT: It goes around an L shape around the side.

MR. MC DONALD: Not going over any sewer lines, water lines?

MR. MC KNIGHT: No, ground level.

MR. RIVERA: Cutting down any trees?

MR. MC KNIGHT: No, probably a branch or two.

MR. KANE: Is the deck itself going to handle the side door coming out of the house?

MR. MC KNIGHT: Yes.

MR. KANE: So you consider the deck there a safety feature for that particular door?

MR. MC KNIGHT: Absolutely. We put the extension on last year, this is just to finish it.

MR. TORLEY: You asked about the drainage?

MR. KANE: Yes.

MR. TORLEY: Gentlemen, do you have any other questions at this time?

MR. KANE: Accept a motion?

MR. TORLEY: Yes, sir.

MR. KANE: I move we set up Robert McKnight for a public hearing on his requested variance at 51 Birchwood Drive.

MR. RIVERA: Second it.

ROLL CALL

MR. KANE	AYE
MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. TORLEY	AYE

MARILYN VAN ORDEN (#03-28)

Ms. Marilyn VanOrden appeared before the board for this proposal.

MR. TORLEY: Request for proposed shed that will project between the house and the road at 4 Ram Road in an R-4 zone.

MR. TORLEY: Yes?

MS. VAN ORDEN: We would like to put a 10 x 12 shed at the end of the driveway which is in front of the house.

MR. KANE: Can you show me where the shed is going to go on your property?

MS. VAN ORDEN: Our driveway runs parallel with the street, the house is up behind it, it would be at the end here to house the ATV, we want something that's going to improve the aesthetics of the property by housing the a T.V. and garbage cans.

MR. KANE: You're not going to create water hazards or runoffs?

MS. VAN ORDEN: No.

MR. KANE: Obvious questions, you're not going to be cutting down any trees?

MS. VAN ORDEN: No.

MR. KANE: And the shed itself, the size of the shed is not going to be any bigger than any sheds that maybe in your neighborhood?

MS. VAN ORDEN: No.

MR. MC DONALD: Is this going to be a delivered shed or built in place?

MS. VAN ORDEN: Built in place.

MR. TORLEY: The grade of your property is such that

you really couldn't put it in the back?

MS. VAN ORDEN: Not without going up 17 cement steps with the garbage cans and everything else.

MR. KANE: So having a shed in the back would present a difficulty?

MS. VAN ORDEN: Yeah, if it's down in the driveway, we can store things that we wouldn't have to lug up to the house.

MR. KANE: Any other homes in your neighborhood have any of your particular features where the driveway's in the front and they have to go up the ridge? Do they have any auxiliary structures in the front of the house?

MS. VAN ORDEN: Houses on the sides of us have the same problem, one house has room on the side of the house that they have the shed, the other house does not have any other structures.

MR. KANE: Okay.

MR. TORLEY: It appears that there's some shrubbery or trees between where the shed would be and the road?

MS. VAN ORDEN: Yes.

MR. TORLEY: If you'll agree to plant some shrubbery.

MS. VAN ORDEN: There's quite a bit there, this was taken when it wasn't all filled in.

MR. TORLEY: We need you at the public hearing to say that.

MS. VAN ORDEN: Oh, yes, I can do that.

MR. TORLEY: And since it's going on top of a driveway, you're not changing any drainage patterns, no easements?

MS. VAN ORDEN: No.

MR. TORLEY: You have water and septic there, water and sewer, right?

MS. VAN ORDEN: I have a well and I have sewer, yes.

MR. TORLEY: Where is the sewer line? You're not putting the shed on top?

MS. VAN ORDEN: No, it would be behind.

MR. TORLEY: Gentlemen, any other questions?

MR. MC DONALD: Accept a motion?

MR. TORLEY: Yes, sir.

MR. MC DONALD: Make a motion we set up Marilyn VanOrden for her requested public hearing for her proposed shed on Ram Road.

MR. KANE: Second the motion.

ROLL CALL

MR. KANE	AYE
MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. TORLEY	AYE

PUBLIC HEARINGS:

JEFFREY STRINGER (#03-21)

MR. TORLEY: Request for 22 ft. required rear yard setback for proposed attached pool deck at 127 Glendale Drive in an R-4 zone.

MR. TORLEY: Is there anyone in the audience who wishes to speak on this matter besides the applicant? Let the record show there is none. And may I have the mailings?

MS. MASON: On the 20th day of May, 74 addressed envelopes containing the public hearing notice were mailed out with no responses.

MR. TORLEY: So what's the difficulty?

MR. STRINGER: Well, it's just the height of the original deck is a steep grade from the stairs, this deck here and then we've got the pool here and I'm going to tie these two decks together and have them come off from this deck four steps down onto the lower deck and four steps down onto the ground. These steps here, it's my parents and my wife's parents for them to access it and a lot of kids run up here and I think it's a little safer if I can tie the two decks together.

MR. TORLEY: So it's your opinion that this would increase the safety of the people using the property?

MR. STRINGER: Absolutely.

MR. KANE: Will there be a, you're going to have a second set of steps coming down to this deck right here from the top deck?

MR. STRINGER: Yeah, take out this section, this is going to come down to this lower deck, all right, and then this is going to come out here and steps down to the ground and I'm going to have steps down to the ground so there's two accesses.

MR. KANE: Self-closing, self-latching gates?

MR. STRINGER: Yes.

MR. KANE: Not going to create any water hazards or runoffs in the building of it?

MR. STRINGER: No.

MR. KANE: Not going to be cutting down any trees?

MR. STRINGER: No.

MR. KANE: Deck itself in size is fairly similar to other decks in the neighborhood?

MR. STRINGER: Yes.

MR. MC DONALD: Any complaints written or otherwise?

MR. STRINGER: No.

MR. TORLEY: Mike, were these two decks not tied together, he would not require any variances?

MR. BABCOCK: That's correct.

MR. TORLEY: So the reason he's here is because by tying the deck to his house, it creates a unified deck but at the same time, it improves the safety of the whole feature.

MR. BABCOCK: That's correct.

MR. KANE: Doesn't become an auxiliary structure. You're not going to be covering any septic, any wells in that area?

MR. STRINGER: No.

MR. TORLEY: Gentlemen, do you have any other questions at this time?

MR. RIVERA: Accept a motion?

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MR. TORLEY: Yes.

MR. RIVERA: Make a motion we grant Jeffrey Stringer his requested rear yard variance at 127 Glendale Drive.

MR. MC DONALD: Second it.

ROLL CALL

MR. KANE	AYE
MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. TORLEY	AYE

LUCY GILLMEIER (#03-17)

MR. TORLEY: Request for 6.5 ft. x 10.5 ft. entry with roof does not meet zoning requirement of 48-14-C(2) at 12 Victory Lane in an R-4 zone.

Ms. Lucy Gillmeier appeared before the board for this proposal.

MR. TORLEY: Is there anyone in the audience who wishes to speak on this matter? Let the record show there is none. And the mailings?

MS. MASON: On the 20th day of May, 56 addressed envelopes containing the public hearing notice were mailed out, no responses.

MR. TORLEY: Okay, ma'am, what's your problem?

MS. GILLMEIER: I just need a variance for a covered porch that's on the front of my house that has been there for over ten years and all of a sudden, I guess when I went to refinance the house, they seem to have found the porch. The porch was put on prior to me purchasing the house and it seems to be 2 1/2 feet too wide.

MR. KANE: This is what we're talking about right here?

MS. GILLMEIER: Yes.

MR. KANE: According to you, it's been up there approximately ten years?

MS. GILLMEIER: I asked the neighbors and she said she thought for about ten years.

MR. KANE: You haven't had any complaints informal or formal?

MS. GILLMEIER: I'm on a private road and there's three houses that can see my porch and no, I have never had a complaint.

MR. KANE: And to your knowledge, you have created no

water hazards or runoffs with this porch?

MS. GILLMEIER: No.

MR. TORLEY: Where is this cross, what's this cross street? This road here?

MS. GILLMEIER: It's a private road.

MR. TORLEY: It's been your experience that this front stoop, front porch has not caused any undue water runoff?

MR. KANE: Covered.

MS. GILLMEIER: I think the issue is the requested frontage that you need for your front yard and I don't even have like 20 feet to actually the private road so it's--

MS. GILLMEIER: The house was built in the 1800's.

MR. TORLEY: The house itself predates zoning.

MS. GILLMEIER: I don't know when zoning--

MR. BABCOCK: 1850.

MR. TORLEY: Just a little bit, yes.

MR. BABCOCK: Mr. Chairman, at the preliminary, it was written that they're allowed a 6 x 8 entry and they're asking for a 6.5 by 10.5 entry but actually, they need a front yard variance so we changed it at the preliminary and the requirements are 35 foot front yard and she's providing 15.1, so she needs a variance of 19.9 feet.

MR. KANE: A 19.9 front yard?

MR. BABCOCK: Yes.

MR. KANE: Make sure we're not short on the measurements.

MR. BABCOCK: We have a survey so that we're going off the survey.

MR. TORLEY: How about if we round to it 20 feet?

MR. BABCOCK: That's fine.

MR. KANE: Just in case.

MS. GILLMEIER: Trust me, I do not want to go through this again.

MR. TORLEY: Very few people do.

MR. KANE: Obviously, taking it down and putting one up that's existing would cause a financial hardship from the way that's built into the house?

MS. GILLMEIER: Nothing more than this has caused because this delayed the refinancing for six months so I've lost quite a bit of money on this.

MR. TORLEY: This does not obstruct drivers' vision?

MS. GILLMEIER: No, it's a private road, one other person at the end of the road that actually drives passed my house.

MR. KANE: Accept a motion?

MR. TORLEY: Yes, sir.

MR. KANE: I move that we approve the requested 20 foot front yard variance for Lucy Gillmeier at 12 Victory Lane.

MR. MC DONALD: Second it.

ROLL CALL

MR. KANE	AYE
MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. TORLEY	AYE

MS. GILLMEIER: I have another question but I don't know if it's something with the zoning board issue or about my neighbor, I have been trying to work with the fire inspector about a neighbor next to me that has like 15 unregistered vehicles and all this lovely stuff, hole in his roof and everything and I have been trying to deal with the fire inspector but nothing seems to be getting done and he supposedly had a court order and court order and that method doesn't seem to be working.

MR. TORLEY: Do you know anything about that?

MR. BABCOCK: No. Who are you working with?

MS. GILLMEIER: Again, I don't know, I just figured--

MR. BABCOCK: Actually, the fire inspector goes there, he issues them a violation and he goes to court.

MS. GILLMEIER: He's been getting violations years and years and still nothing happens.

MR. BABCOCK: He goes to court, that's the only thing we can do.

MS. GILLMEIER: So it's not anything with the zoning board?

MR. BABCOCK: No.

MR. TORLEY: It's a building code violation for the unregistered cars.

MR. BABCOCK: Yeah, I'm sure but you're, it's still up to the judge if he's in front of the judge, that's all we can do. I'll find out tomorrow.

MR. TORLEY: Thank you for bringing that to our attention.

CARMEN MONACO (#02-60)

Daniel Bloom, Esq. and Mr. Carmen Monaco appeared before the board for this proposal.

MR. TORLEY: Request for use variance for proposed conversion of commercial space to apartment use at 224 Walsh Avenue in an R-4 zone. Is there anyone besides the applicant who wishes to speak on this matter? Let the record there is none. Letters?

MS. MASON: On the 20th day of May, 63 addressed envelopes containing the public hearing notice were mailed out, no response.

MR. BLOOM: Good evening, my name is Dan Bloom, I represent Mr. Monaco this evening and I have with me to my left Mr. Eldred Carhart. Mr. Carhart will be addressing you later with the board's permission concerning the necessary economic basis for the application. With the board's permission, I'd like to take a moment to bring the easel over so I can put up some maps and make it a little bit easier to understand what we're trying to achieve here.

MR. TORLEY: Before you begin, this structure and property has been before the board on a number of times for various changes. Can we reach a point where we're going to say you're going to change it one last set of variance requests, uses, whatever and that will be it?

MR. MONACO: This is it, sir, yeah, this gets it all to one basic usage.

MR. BLOOM: Okay, thank you, gentlemen. This is the application of my client, Mr. Carmen Monaco, who as you may know operates an auto sales business in the Town of New Windsor, it faces on Walsh Road and it backs off into Clancy. I'd like to give a little bit of historical background in terms of the prior history of this property with the Zoning Board of Appeals and the Planning Board as alluded to by the Chairman a little while ago. I was with Carmen Monaco probably back 1997 when we came before this board and at that time, the goal was to take this property which consisted of at

that time about four separate tax parcels and to try to take mixed uses being residential, car sales, machine shop and try to segregate them onto separate parcels, this is over in Ducktown, as you know, and we're kind of stuck with something that has an awfully long history but I can say that we're here this evening to hopefully and as suggested by the board hopefully to put this to rest once and for all and I say that for this reason. When we were here the last time in 1997, my client was seeking permission to use the building that appears on this diagram today which is crosshatched to seek permission to use the upper portion of it as residential and the lower portion as an existing, as a prior machine shop, but to be transferred into another commercial use at that time a curtain shop, manufacturing of curtains. And the property that's crosshatched off to the right as you face Walsh Road was to be his sales office and residential next to it. Well, we're here this evening thankfully to announce that the owner of the curtain shop has now decided to go out of business or at least move so my client's faced with an unusual sort of situation, on the one hand, he could continue the use given the prior variance that was granted by this board for commercial purposes or as he's doing on this application he comes back to the board this evening for the purpose of instead of continuing the commercial non-permitted use in this R-4 so he's coming back to seek permission to convert that pre-existing commercial use, that is the curtain shop into two new apartments. The end result would be that if this board grants the application and when we're all said and done we'll have one building that will consist of 7 separate apartments with the existing sales office on the very end and I might say it's a sales office in name only, there's really no activity. Carmen doesn't operate a retail sales type of business, it's wholesale so he hardly ever has anyone come to the shop. But with that, that is the purpose of the application. Now, there will be no changes to the footprint of the building, there will be no changes to the exterior of the building, the only thing that's going to occur is that he's going to upgrade the interior of the building to the point that all of the apartments will have separate and new heating systems, separate and new gas meters, electric

so that the existing building which when he purchased it had one heating plan to service the entire structure, each apartment will have its own separate entrance and own separate utilities and meters. The bottom line is that when he's done, if this application is granted, he will now have a structure that's entirely residential so that all of the residents in the building can enjoy a better quality of life. Now why do we say that? Well, a curtain shop is not a particularly offensive intrusion on residential life but Carmen tells me on a regular basis perhaps daily this woman, the curtain shop owner rightfully would get UPS deliveries daily, truck would pull up in the front and block the resident's entrance to the building, 18 wheel trucks would come by and drop off supplies and block the entire entrance on those occasions. So if he can get rid of the commercial use here, limit it strictly to the residential apartments, have separate entrances, you'll notice the property next to it is all parking area, he says that he has more than ample parking in the back for all the residential tenants and in fact, the existing commercial tenant has two employees and each have their own cars. So there's three cars that will not be utilizing the premises, should the application be granted. And in effect, if the application is granted, he's going to be achieving a residential community on his parcels which will compliment the residential community in the surrounding area and not be a detriment to it, improve the quality of life of all the residents in the neighborhood. Now, I'd like to at this time with the board's permission introduce Mr. Eldred Carhart to you. I have retained Eldred to come and to prepare an analysis of the affect, the impact of the granting of a residential variance to my client vis-a-vis the denial of the application, meaning he would have to continue to use this building as a mixed use that's commercial and residential and by way of giving you some of the background of Eldred that he's state certified general appraiser, he's certified in New York, Connecticut and Pennsylvania, he's been in the business of appraising since 1965, he's been employed by various lending institutions throughout Westchester, Rockland and Orange during that period of time and ultimately formed his own appraisal service and has performed appraisals

for various, various lending institutions and boards throughout New York State. And with that introduction, I'd like to have the opportunity to have Mr. Carhart address you on those issues please.

MR. TORLEY: The board would acknowledge his expertise in this matter.

MR. CARHART: Thank you. The application is for a mixed use property 5 residential units and this commercial unit, the commercial unit takes up 1,550 square feet and it's now occupied by a drapery manufacturer. The property has only one half bathroom, it has a compressor which operates quite noisily, it has daily UPS service and it rents for \$550 a month which converts to \$3.80 a square foot on an annual basis. To continue the manufacturing use would be extremely difficult. Unrestricted manufacturing use of the property could be harmful to the other residential tenants, whereas only quiet uses of the property would be acceptable and like the drapery manufacturer would cause a loss of income which is what this property does, which is its present use. Lack of a bathroom facilitates, also causes problems for the property which, and the cure is economically unfeasible to fix it. Daily UPS deliveries and noise from the compressor also add to the general confusion of the site. In my opinion, the granting of the variance would not have any adverse affect on the property values in the neighborhood, except to improve them eliminating possibly this commercial use of the property. The conversion to an apartment basis would increase the net operating income a great deal.

MR. KANE: Are there any other still commercial situations in that particular neighborhood or is it all residential?

MR. MONACO: It's a mixed neighborhood but there's a lot of multi-family, next to me is a seven family.

MR. KANE: Not multi-family but commercial?

MR. MONACO: There's a junk yard across the street, Freddy Thompson with the trailer park in the back.

MR. BABCOCK: Keep in mind across the street is a PI zone, Walsh Road is the borderline.

MR. TORLEY: Now I'm sorry I forgot to bring my bulk tables with me tonight but any other commercial activities permitted in an R-4 zone like a convenient store or something like that?

MR. BABCOCK: No, it's strictly single family residential.

MR. TORLEY: So a commercial activity, this is strictly hypothetical, a mom and pop grocery store in that space would still even though now legal because of his variances he's changing the use, maybe not.

MR. BABCOCK: Right, the only thing that he can do is continue the exact same use that he has there now, manufacturing, so if somebody came in and wanted a manufacturing machine shop, manufacturing any type of product, he would be able to rent it to them. But the problem he faces is what he's saying is that he can't rent to somebody that's going to make a lot of noise because the building has the rest full of apartments.

MR. TORLEY: I'm looking at 1,500 square feet for a proposed two apartments, what's the main apartment size? I thought it was 900 square feet, again, I forgot my bulk table, it's not listed.

MR. KANE: That would be the planning board.

MR. TORLEY: No, he's asking for us to create two apartments that are substandard size.

MR. CARHART: I don't know that they are substandard size.

MR. TORLEY: 1,500 square feet he's making two apartments out of it.

MR. CARHART: There's an awful lot of apartments that are 660 square feet.

MR. TORLEY: That's true but if they're not meeting our standard, we cannot create substandard apartments.

MR. BABCOCK: What I think we're saying is that if they don't and I don't have that information in front of me, you should be asking for a variance of that also so maybe that's what we need to do, is that what you're saying?

MR. TORLEY: Yes, I am.

MR. BLOOM: Well, Mr. Chairman, may I be heard on that issue?

MR. TORLEY: Please.

MR. BLOOM: We weren't aware of the fact that this application for the two apartments might require a variance in terms of square footage, this is the first time we're hearing of it. My question to the board is could they consider granting the such a variance at this time having made the formal application to the board before?

MR. TORLEY: I don't know if we can add that in or not.

MR. KRIEGER: What's the notice say?

MR. TORLEY: Anybody have a copy of the notice?

MR. BABCOCK: I'm sure it doesn't say that because it never came to our minds at that time.

MR. BLOOM: Just said conversion to apartment use.

MR. KRIEGER: Without any statement about size, yes, I don't see any reason why you can't consider that at this point, it's within the apartment, that's what we asked for.

MR. BABCOCK: I'm going to have to go get the book.

MR. TORLEY: See, our problem is we're forbidden, we just can't say you can make two apartments and find that those two apartments are substandard size without

discussion on that matter now, again, this is a, I think this really comes under the heading of unique, you've had a unique property for a long time.

MR. KRIEGER: How big are the other apartments in the building?

MR. MONACO: Nothing is that big and most, a lot of them that are there now remember there's two apartments right above this the exact same size total as what we're looking to do, there's two apartments above.

MR. KRIEGER: Of the other ones, they're no bigger than that?

MR. MONACO: No, in fact, a lot smaller, the building next door that's a 7 family house I've been in a lot of them apartments, they're very, very tiny.

MR. KRIEGER: My question was really addressed to the building that you own that's the subject of this variance, so these apartments if they were allowed to be created would be, they wouldn't be any bigger than the apartments in the building?

MR. MONACO: No.

MR. MC DONALD: The two apartments on the second floor are currently occupying the 1,500 square feet?

MR. MONACO: Yeah, they're exactly above it so they're the exact same size.

MR. KANE: If the apartments were granted, you still feel you have enough room to handle the parking on it and still leave a fire lane going through?

MR. MONACO: Yes.

MR. TORLEY: I'm concerned about the fire access when we get to the 7 family residences whether additional building and fire codes you have to worry about or you'd have to worry about with the planning board. Because my assumption is that after this you have to go to the planning board.

MR. BLOOM: I believe it's subject to site plan approval.

MR. TORLEY: When you get to seven families there may be differences in building codes and requirements.

MR. TORLEY: While Mike is looking, we can continue the rest of this. Gentlemen, any other questions you have on this?

MR. KANE: Not at the moment.

MR. KRIEGER: I have one other. If the variances that you seek are granted, would you be willing to surrender the previously granted commercial variance?

MR. MONACO: On the one we're talking about?

MR. KRIEGER: On these.

MR. MONACO: Oh, sure, yeah, I would never go back to, no, I would never want to go back, no.

MR. KANE: Except for the used car office, correct?

MR. KRIEGER: Yes.

MR. MONACO: That's me personally.

MR. TORLEY: But the area that we're discussing now which is now commercial should you be granted this variance to convert it to residential, our attorney has asked if you'd be willing to surrender the commercial license?

MR. MONACO: Yeah, I did not want to spend the money on the apartment, I don't think it would be, financially wouldn't make any sense to try to go back to a commercial and the thing I'm trying to get away from is the commercial because of certain dangers I feel, you know and like I say, the trucks, just the fact of a compressor running, I mean, I have them alarms to make sure there's no fumes going up and I'm not really comfortable with that. I've never had a problem but I

just figure I can do away with all that and just feel better about everything.

MR. KRIEGER: But you understand that if you were to surrender the commercial variance it's gone?

MR. MONACO: Right. The only thing would be where I have the cars, right?

MR. KRIEGER: I'm not including the sales office, I'm including for this particular space.

MR. MONACO: I have no problem with that whatsoever.

MR. TORLEY: The other question is I'm sure your attorney is aware of the requirements for granting a use variance and those four criteria can you or your appraiser tell us that he cannot if he converted this whole space to the appropriate or to a permitted use in a R-4 zone, he could not get reasonable return on this property?

MR. BLOOM: He cannot, Mr. Chairman, but I will have my appraiser address that specific issue. Would you, Eldred?

MR. CARHART: The square foot return as a commercial property would be \$3.80 a square foot roughly, that's a net on a net basis and the square foot return on the two apartments would be \$10 a square foot, it would be almost three times as much.

MR. TORLEY: Okay, now, in the R-4 zone for a permitted use in a R-4 zone single family home, what would be the return on this, what could this property be sold at for use as a single family home that being the only permitted uses essentially the only permitted use in a R-4 zone?

MR. CARHART: Could you give me just a second?

MR. TORLEY: Yes.

MR. CARHART: I wasn't prepared to answer that.

MR. TORLEY: The use variance says that he has to demonstrate he cannot get a reasonable return for any permitted use in the zone.

MR. CARHART: Well, the permitted use in the zone.

MR. BLOOM: I believe that's what he has addressed.

MR. TORLEY: That's converting commercial to residential.

MR. BLOOM: Correct but what he's saying is that--

MR. TORLEY: But a residential space, so you did say that's \$10 a square foot residential, whether it's two apartments or one apartment?

MR. CARHART: No, I didn't say that, it's two apartments.

MR. BLOOM: With one apartment, Mr. Chairman is asking what would it be with one apartment?

MR. CARHART: I would have to calculate it but it's, I would say it's roughly half of that, it would be around \$5.00 a square foot.

MR. TORLEY: So say 1,500 square foot apartment would not rent for twice the rent?

MR. CARHART: No, it would not rent for twice the amount but it would rent for more.

MR. TORLEY: More but not twice.

MR. CARHART: Yeah, but not twice.

MR. TORLEY: So it would be a diminished return?

MR. CARHART: Yes.

MR. TORLEY: Secondly, this is obviously, I can't say this is a self-created hardship, given the history of the building.

MR. KANE: It's a unique situation which I think covers the self-created, almost everything down in Ducktown is.

MR. TORLEY: It's not going to change the nature of the neighborhood, difficult to imagine that.

MR. BLOOM: No.

MR. TORLEY: Have we covered the criteria on this?

MR. KRIEGER: Yes.

MR. TORLEY: He's going from commercial to residential, does that require short form SEQRA?

MS. MASON: I have that but do we have to do lead agency?

MR. KRIEGER: Yeah, you have to take, no, you have to determine that you're making a review only for this board's purposes and then take lead agency.

MR. TORLEY: Okay, the secretary pointed out to us and our attorney's confirmed since this is a commercial structure we need a SEQRA form which I'm recommending that the zoning board take as lead agency on for our purposes and gentlemen, do you have any objections to a negative finding?

MR. MC DONALD: No.

MR. KANE: No.

MR. KRIEGER: Provided that that's limited to the findings of this board only, it's not designed to bind the planning board or any other entity.

MR. TORLEY: So noted. We need a motion?

MR. KRIEGER: Yes.

MR. TORLEY: May I have a motion on this matter?

MR. KANE: I move that we take lead agency status for

this board's use only on that SEQRA form and declare a negative declaration as it applies to our purposes, not binding the planning board.

MR. MC DONALD: I'll second that.

ROLL CALL

MR. KANE	AYE
MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. TORLEY	AYE

MR. KRIEGER: So the applicant understands when and if you appear in front of the planning board you'll have to go through the SEQRA process there, this doesn't do anything for you one way or the other, it doesn't obviate the need for that.

MR. KANE: If they feel they need something more in depth, they have the right to do that, we, for our purposes, we declared it fine. Other boards have the right to make their own decisions.

MR. TORLEY: Mike, have you found the minimum apartments?

MR. BABCOCK: Actually, there's, in the multiple dwelling, I'm not sure what you're looking for, multiple dwelling itself different than what the R-4 zone is.

MR. TORLEY: We have to go with, we're going to go with as we have in the past if we're making this variance we're going to be what it's like if it was legal for where it was.

MR. BABCOCK: R-4.

MR. TORLEY: Minimum living space.

MR. BABCOCK: Today is 1,200, if you don't consider it a non-conforming lot, which I think it would be considered as non-conforming with the water and sewer cause he does which brings it down to 1,000 square

foot.

MR. TORLEY: Now, in general, in other areas where multiple family dwellings are permitted, what's the minimum size for an apartment?

MR. BABCOCK: I didn't bring that with me, that's R-5 zone which I can go get if you want, I didn't do that because I thought you wanted to use the R-4.

MR. TORLEY: In that case we'd be then granting--

MR. KANE: But if he already has two existing apartments and these are going to be the same size as those that are in the building, just get the numbers correct.

MR. BABCOCK: Yes, I would use, I mean, if it's an R-4 zone, the safest bet is to use the thousand square foot so if he has 1,500 square foot you're making them 750 each, he'd need to ask for a variance for that.

MR. TORLEY: Would you be amenable to do that?

MR. BLOOM: I would, Mr. Chairman and we'd also like to make that motion from the floor with this board's permission at this time.

MR. TORLEY: Thank you.

MR. MC DONALD: So we'd be adding the 250 per unit per apartment, right?

MR. TORLEY: Right.

MR. BABCOCK: Well, it's says livable floor area so maybe if he's going to have a utility room in these units, maybe we should, I'm sure it's going to take up some room, so I would say maybe I'm not sure that's what he's going to get out of it, so I think if we even went to 300.

MR. MC DONALD: Let's give him some room to move.

MR. TORLEY: Make it 300. So now gentlemen, do you

have any other questions on these two variance requests? Again, there's no one in the audience who wishes to speak on this matter, we have opened and closed the public, I'd like to take this on two separate motions, might be the best way of doing it.

MR. RIVERA: Let me just ask a question if I may since you have vehicles on this lot, is there any type of maintenance performed?

MR. MONACO: No, absolutely not, I own a repair shop on Broadway, Budget Muffler and Brake Center, Broadway and DuPont Avenue, three bay, that's my shop, I have four mechanics there. I do no work there, it's outside, there's no garage at my building, there would be no reason except maybe jumping a dead battery out in the lot, if it happens. There's no work performed, no, not an oil change, nothing. If there's a major problem, I drive across the street to trade automotive who I sell cars to and he does it there, I would have no reason to do work but never in my shop.

MR. TORLEY: So motion on the use variance.

MR. KANE: Mr. Chairman, I move that we approve Carmen Monaco for a use variance for proposed conversion of commercial space to an apartment at 224 Walsh Avenue.

MR. MC DONALD: Second it.

MR. TORLEY: Amend that to say and he's surrendering the existing commercial variance.

MR. KANE: So noted.

ROLL CALL

MR. KANE	AYE
MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. TORLEY	AYE

MR. KANE: Accept a motion?

MR. TORLEY: Yes.

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MR. KANE: I move that we grant the 300 square foot area variance for two proposed apartments at 224 Walsh Avenue.

MR. BABCOCK: Minimum livable area.

MR. TORLEY: 300 for each of them.

MR. MC DONALD: Second it.

ROLL CALL

MR. KANE	AYE
MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. TORLEY	AYE

MR. BLOOM: Thank you very much.

DALE CLARK (03-22)

Mr. Dale Clark appeared before the board for this proposal.

MR. TORLEY: Request for 8.5 ft. required side yard setback for existing shed at 17 Creamery Drive in a CL zone. Again, is there anyone in the audience who wishes to speak on this matter?

MS. MASON: On May 20, 54 addressed envelopes containing the public hearing notice were mailed out with no response.

MR. CLARK: Good evening, I'm requesting a variance for a side yard setback for a shed. The shed was pre-existing my ownership of the property. It currently sets 3 1/2 feet from the side yard and I believe it needs to be 12 feet for a side yard setback.

MR. TORLEY: So this is an existing shed, are you replacing the shed or just making it legal?

MR. CLARK: Making it legal. The shed was there prior to my ownership of the property in '92. If you refer to the survey, it shows the shed in its current location and it's dated August 3 of 1988, that shed has been at the same location and at the time I purchased property, I never had a C.O. or no one's ever required a C.O. for the shed. So I'm selling the property now and just trying to correct this matter prior to the transfer in ownership. If you look at the photographs--

MR. TORLEY: There's a chain link fence around the shed?

MR. CLARK: Right, if I move the shed, I'd compromise the fence and the landscaping and if you take note just behind the shed, the property's fairly sloped down to Caesar's Lane, nearly half my property is sloped, it's very limited space to place the shed on the property.

MR. RIVERA: Have you had any complaints formal or informal?

MR. CLARK: No, I haven't. This matter was never brought up for the closing but I wanted to correct it just to avoid the problem in case it does come up.

MR. KANE: As far as you know, there's no water hazards? Did you guys cover--no creation or water hazards or runoffs?

MR. CLARK: No. Nearly half the property slopes off to Caesar's Lane.

MR. KANE: Shed itself is similar to other sheds in the neighborhood?

MR. CLARK: Yes, it is.

MR. TORLEY: And you have the fence for safety reasons, the back fence to keep your kid from tumbling over?

MR. CLARK: Yes.

MR. KRIEGER: It's not built on the top of water, sewer or any other easements?

MR. CLARK: No, it's not.

MR. KRIEGER: Well or septic system?

MR. CLARK: Municipal services.

MR. TORLEY: Gentlemen, with your permission, I will open it up to the public. Ma'am, do you understand?

MS. JEFFERSON-ATTIA: I don't have any questions, no.

MR. TORLEY: Do you have any objection to the granting of the variance?

MS. JEFFERSON-ATTIA: No.

MR. TORLEY: Close it up and open it back to the members of the board. Do you have any other questions, gentlemen?

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MR. RIVERA: Accept a motion?

MR. TORLEY: Yes, sir.

MR. RIVERA: Motion we grant Mr. Dale Clark his required side yard setback for the existing shed at 17 Creamery Drive.

MR. MC DONALD: Second it.

ROLL CALL

MR. KANE	AYE
MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. TORLEY	AYE

FORMAL DECISIONS:

1. M & Y BUILDERS
2. EUGENE & JAN HECHT
3. JOSEPH & CELESTE CACCIOLA
4. ROBERT & ELIZABETH DEPAOLIS
5. ALEXANDER COUZIS

MR. KANE: Move we take all formal decisions in one vote as written.

MR. RIVERA: So moved.

MR. MC DONALD: Second it.

ROLL CALL

MR. KANE	AYE
MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. TORLEY	AYE

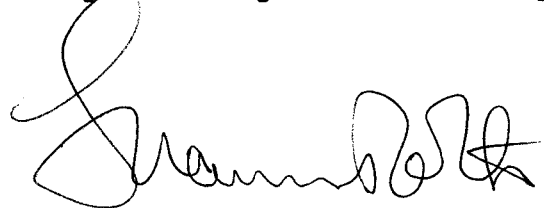
MR. KANE: Motion to adjourn.

MR. MC DONALD: Second it.

ROLL CALL

MR. KANE	AYE
MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. TORLEY	AYE

Respectfully Submitted By:



Frances Roth
Stenographer